

REMARKS

This document is submitted in response to the Office Action dated October 12, 2010. Applicants have presently amended claims 23, 24 and 25. Claims 14-22 have been withdrawn. Claim 26 has been cancelled (incorporated into claim 23). New claims 27 to 29 have been added.

Amendments to claim 23 finds support in former dependent claim 26; amendments to claim 24 finds support in former claim 23; amendments to claim 25 find support on page 11, lines 32-34. Support for new claim 27 can be found on page 11, lines 32-34; for new claims 28 and 29 on page 13, lines 29-31 and FIG. 1. Other amendments were made to improve clarity, and/or to correct antecedent basis.

Applicant believes that no new matter has been added.

Upon entry of this Amendment, claims 23-25 and 27 to 29 will be pending and under examination. Applicant respectfully requests that the Examiner reconsider this application and these claims in view of the following remarks.

A. Objections

In the present Action on page 20, the Examiner states that “[c]laims 24 and 26 are objected to because...” they are “dependent upon a rejected claim”. The Examiner then requires Applicant to incorporate the limitations of claims 14 and 23 into the aforementioned claims.

Applicant has presently amended claim 23 to incorporate the features of former claim 26, and has amended claim 24 to incorporate the features of claim 23, in accordance with the Examiner’s requirements. Also, the “plasma membrane calcium ATPase 4 (PMCA4)” aspect of former claim 14 is now incorporated into the claim 23 + 26 and Claim 23 + 24 combinations, as the Examiner required.

Consequently, Applicant believes that these claims (and associated-dependent claims 25, 27-29) are now in good condition for allowance.

B. Response to rejection under 35 USC §102: Chaudhary (new)

In the present Action, pending claim 20 is rejected under 35 U.S.C. 102(b) as unpatentable over Chaudhary et al. (2001). See Office Action on pages 8-9.

This claim has been presently withdrawn to thereby render the Examiner’s rejection as moot.

C. Response to rejection under 35 USC §103: Chaudhary in view of Pasquale (new)

In the present Action, pending claim 21 is rejected under 35 U.S.C. 103(a) as unpatentable over Chaudhary et al. (2001) in view of Pasquale. See Office Action on pages 9-10.

This claim has been presently withdrawn to thereby render the Examiner's rejection as moot.

D. Response to rejection under 35 USC §112 (new):

In the present Action, pending claim 22 is rejected under 35 U.S.C. 112 as being indefinite. See Office Action on pages 10 to 11.

This claim has been presently withdrawn to thereby render the Examiner's rejection as moot.

E. Response to rejections under 35 USC §103: Chaudhary in view of Wennemuth

In the present Action, pending claims 14-15 and 17-19 are rejected under 35 U.S.C. 103(a) as unpatentable over Chaudhary et al. (2001) ("Chaudhary") in view of Wennemuth et al. (2003) (which includes the Correction to FIGURE 9 that was published on June 30, 2003) ("Wennemuth"). See Office Action on pages 12 to 15.

Although Applicant respectfully traverses this rejection for the reasons already of record, these claims have been presently withdrawn to thereby render the Examiner's rejection as moot.

F. Rejection of Claim 16 under 35 U.S.C. §103: Chaudhary + Wennemuth + Zimmermann

In the present Action, pending claim 16 is rejected under 35 USC 103(a) as unpatentable over Chaudhary, Wennemuth and Zimmerman et al. ("Zimmermann"). See Office Action on pages 15 to 16.

Although Applicant respectfully traverses this rejection for the reasons already of record, this claim have been presently withdrawn to thereby render the Examiner's rejection as moot.

G. Response to rejections under 35 U.S.C. §103: Chaudhary + Wennemuth + Perloe (new)

In the present Action, pending claim 23 is rejected under 35 USC 103(a) as unpatentable over Chaudhary, Wennemuth and Perloe et al. See Office Action on pages 17 to 18.

This claim has been presently amended to incorporate the limitations recited in objected to (*and not rejected*) claim 26. A second independent diagnostic claim based on former claim 23 has been introduced into objected to (*and not rejected*) claim 24 as required by the Examiner. See Office Action on page 20.

Accordingly, Applicant believes that the combination of features recited by present claims 23 and 24 is both novel and non-obvious over the cited art.

H. Response to rejections under 35 U.S.C. §103: Chaudhary + Wennemuth + Perloe + Burnett (new)

In the present Action, pending claim 25 is rejected under 35 USC 103(a) as unpatentable over Chaudhary, Wennemuth, Perloe and Burnet et al. See Office Action on pages 18 to 19.

This claim depends from presently amended claim 23. Similar new claim 27 has been drafted to depend from presently amended claim 24. Accordingly, in view of our remarks made under Sections A. and G. herein, Applicant believes that the combination of features recited by claim 25 (and new claim 27) is both novel and non-obvious over the cited art.

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I. CONCLUSION

In view of the amendments and arguments set forth above, Applicant considers that the objections and rejections in the Office Action mailed on October 12, 2010 have been overcome. Accordingly, we believe that the pending claims are in good condition for grant and kindly request that the Examiner issue a Notification of Allowance. It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment.

If the Examiner believes that a telephone conference would expedite the allowance of the present case, or has any questions or concerns regarding this Amendment, Applicant would welcome a telephone call to Applicant's undersigned attorney at the number below.

Date: 02/11/2011

Respectfully submitted,

Heimlich Law

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